

## **Appendix 60 -- The Additional Articles to the Constitution of the Republic of China (1991)**

Source: Taiwan Documents Project. The History of Constitutional Revisions in the Republic of China. Available at: <http://taiwandocuments.org/constitution07.htm>

Adopted by the second extraordinary session of the First National Assembly on April 22, 1991, and promulgated by the president on May 1, 1991

Adopted by the extraordinary session of the Second National Assembly on May 27, 1992, and promulgated by the president on May 28, 1992

Adopted by the fourth extraordinary session of the Second National Assembly on July 28, 1994, and promulgated by the president on August 1, 1994

Adopted by the second session of the Third National Assembly on July 18, 1997, and promulgated by the president on July 21, 1997

Revised by the fourth session of the Third National Assembly on September 3, 1999, and promulgated by the president on September 15, 1999

The Council of Grand Justices, in its Constitutional Interpretation No. 499 on March 24, 2000, announced that the Additional Articles of the Constitution approved on September 15, 1999, were void, effective immediately. The revised Additional Articles promulgated on July 21, 1997 would remain in effect.

The revision of the Additional Articles of the Constitution of the Republic of China was approved by the fifth session of the Third National Assembly on April 24, 2000, and promulgated by the president on April 25, 2000.

To meet the requisites of the nation prior to national unification, the following articles of the ROC Constitution are added or amended to the ROC Constitution in accordance with Article 27, Paragraph 1, Item 3; and Article 174, Item 1:

Article 1. Three hundred delegates shall be elected by proportional representation to the National Assembly within three months of the expiration of a six-month period following the public announcement of a proposal by the Legislative Yuan to amend the Constitution or alter the national territory, or within three months of a petition initiated by the Legislative Yuan for the impeachment of the president or the vice president. The restrictions of Articles 26, 28, and 135 of the Constitution shall not apply. The election of the delegates by proportional representation shall be regulated by law.

The powers of the National Assembly shall be as follows, and the provisions of Article 4; Article 27, Paragraph 1, Item 1 through 3; Article 27, Paragraph 2; and Article 174, Item 1 shall not apply:

1. To vote, in accordance with Article 27, Paragraph 1, Item 4 and Article 174, Item 2 of

the Constitution, on Legislative Yuan proposals to amend the Constitution;

2. To vote, in accordance with Article 4, Paragraph 5 of the Additional Articles, on Legislative Yuan proposals to alter the national territory; and

3. To deliberate, in accordance with Article 2, Paragraph 10 of the Additional Articles, a petition for the impeachment of the president or the vice president initiated by the Legislative Yuan.

Delegates to the National Assembly shall convene of their own accord within ten days after the election results have been confirmed and shall remain in session for no more than one month. The provisions of Articles 29 and 30 of the Constitution shall not apply.

The term of office of the delegates to the National Assembly shall terminate on the last day of the convention, and the provisions of Article 28 of the Constitution shall cease to apply. The term of office of the delegates to the Third National Assembly shall terminate on May 19, 2000. The Organic Law of the National Assembly shall be revised accordingly within two years of the adjustment of the powers and responsibilities of the National Assembly.

Article 2. The president and the vice president shall be directly elected by the entire populace of the free area of the Republic of China. This shall be effective from the election for the ninth-term president and vice president in 1996. The presidential and the vice presidential candidates shall register jointly and be listed as a pair on the ballot. The pair that receives the highest number of votes shall be elected. Citizens of the free area of the Republic of China residing abroad may return to the ROC to exercise their electoral rights and this shall be stipulated by law.

Presidential orders to appoint or remove from office the president of the Executive Yuan or personnel appointed with the confirmation of the Legislative Yuan in accordance with the Constitution, and to dissolve the Legislative Yuan, shall not require the countersignature of the president of the Executive Yuan. The provisions of Article 37 of the Constitution shall not apply.

The president may, by resolution of the Executive Yuan Council, issue emergency decrees and take all necessary measures to avert imminent danger affecting the security of the State or of the people or to cope with any serious financial or economic crisis, the restrictions in Article 43 of the Constitution notwithstanding. However, such decrees shall, within ten days of issuance, be presented to the Legislative Yuan for ratification. Should the Legislative Yuan withhold ratification, the said emergency decrees shall forthwith cease to be valid.

To determine major policies for national security, the president may establish a national security council and a subsidiary national security bureau. The organization of the said organs shall be stipulated by law.

The president may, within ten days following passage by the Legislative Yuan of a no-confidence vote against the president of the Executive Yuan, declare the dissolution of the Legislative Yuan after consulting with its president. However, the president shall not dissolve the Legislative Yuan while martial law or an emergency decree is in effect. Following the

dissolution of the Legislative Yuan, an election for legislators shall be held within 60 days. The new Legislative Yuan shall convene of its own accord within ten days after the results of the said election have been confirmed, and the term of the said Legislative Yuan shall be reckoned from that date.

The terms of office for both the president and the vice president shall be four years. The president and the vice president may only be re-elected to serve one consecutive term; and the provisions of Article 47 of the Constitution shall not apply.

Should the office of the vice president become vacant, the president shall nominate a candidate(s) within three months, and the Legislative Yuan shall elect a new vice president, who shall serve the remainder of the original term until its expiration.

Should the offices of both the president and the vice president become vacant, the president of the Executive Yuan shall exercise the official powers of the president and the vice president. A new president and a new vice president shall be elected in accordance with Paragraph 1 of this article and shall serve out each respective original term until its expiration. The pertinent provisions of Article 49 of the Constitution shall not apply.

Recall of the president or the vice president shall be initiated upon the proposal of one-fourth of all members of the Legislative Yuan, and also passed by two-thirds of all the members. The final recall must be passed by more than one-half of the valid ballots in a vote in which more than one-half of the electorate in the free area of the Republic of China takes part.

Should a motion to impeach the president or the vice president initiated and submitted to the National Assembly by the Legislative Yuan be passed by a two-thirds majority of all delegates to the National Assembly, the party impeached shall forthwith be dismissed from office.

Article 3. The president of the Executive Yuan shall be appointed by the president. Should the president of the Executive Yuan resign or the office become vacant, the vice president of the Executive Yuan shall temporarily act as the president of the Executive Yuan pending a new appointment by the president. The provisions of Article 55 of the Constitution shall cease to apply.

The Executive Yuan shall be responsible to the Legislative Yuan in accordance with the following provisions; the provisions of Article 57 of the Constitution shall cease to apply:

1. The Executive Yuan has the duty to present to the Legislative Yuan a statement on its administrative policies and a report on its administration. While the Legislative Yuan is in session, its members shall have the right to interpellate the president of the Executive Yuan and the heads of ministries and other organizations under the Executive Yuan.

2. Should the Executive Yuan deem a statutory, budgetary, or treaty bill passed by the Legislative Yuan difficult to execute, the Executive Yuan may, with the approval of the president of the Republic and within ten days of the bill's submission to the Executive Yuan, request the Legislative Yuan to reconsider the bill. The Legislative Yuan shall reach a resolution on the returned bill within 15 days after it is received. Should the Legislative Yuan be in recess, it shall convene of its own accord within seven days and reach a resolution within

15 days after the session begins. Should the Legislative Yuan not reach a resolution within the said period of time, the original bill shall become invalid. Should more than one-half of the total number of Legislative Yuan members uphold the original bill, the president of the Executive Yuan shall immediately accept the said bill.

3. With the signatures of more than one-third of the total number of Legislative Yuan members, the Legislative Yuan may propose a no-confidence vote against the president of the Executive Yuan. Seventy-two hours after the no-confidence motion is made, an open-ballot vote shall be taken within 48 hours. Should more than one-half of the total number of Legislative Yuan members approve the motion, the president of the Executive Yuan shall tender his resignation within ten days, and at the same time may request that the president dissolve the Legislative Yuan. Should the no-confidence motion fail, the Legislative Yuan may not initiate another no-confidence motion against the same president of the Executive Yuan within one year.

The powers, procedures of establishment, and total number of personnel of national organizations shall be subject to standards set forth by law.

The structure, system, and number of personnel of each organization shall be determined according to the policies or operations of each organization and in accordance with the law as referred to in the preceding paragraph.

Article 4. Beginning with the Fourth Legislative Yuan, the Legislative Yuan shall have 225 members, who shall be elected in accordance with the following provisions, the restrictions in Article 64 of the Constitution notwithstanding:

1. One hundred and sixty-eight members shall be elected from the Special Municipalities, counties, and cities in the free area. At least one member shall be elected from each county and city.
2. Four members each shall be elected from among the lowland and highland aborigines in the free area.
3. Eight members shall be elected from among the Chinese citizens who reside abroad.
4. Forty-one members shall be elected from the nationwide constituency.

Members for the seats set forth in Item 3 and Item 4 of the preceding paragraph shall be elected according to a formula for proportional representation among political parties. Where the number of seats for each Special Municipality, county, and city as set forth in Item 1, and for each political party as set forth in Item 3 and Item 4, is not fewer than five and not more than ten, one seat shall be reserved for a female member. Where the number exceeds ten, one seat out of each additional ten shall be reserved for a female member.

When the Legislative Yuan convenes each year, it may hear a report on the state of the nation by the president.

Following the dissolution of the Legislative Yuan by the president and prior to the inauguration of its new members, the Legislative Yuan shall be regarded as in recess.

The territory of the Republic of China, defined by its existing national boundaries, shall not be

altered unless initiated upon the proposal of one-fourth of all members of the Legislative Yuan, passed by three-fourths of the members of the Legislative Yuan present at a meeting requiring a quorum of three-fourths of all the members, and approved by three-fourths of the delegates to the National Assembly present at a meeting requiring a quorum of two-thirds of all the delegates.

Should the president issue an emergency decree after dissolving the Legislative Yuan, the Legislative Yuan shall convene of its own accord within three days to vote on the ratification of the decree within seven days after the session begins. However, should the emergency decree be issued after the election of new members of the Legislative Yuan, the new members shall vote on the ratification of the decree after their inauguration. Should the Legislative Yuan withhold ratification, the emergency decree shall forthwith be void.

Impeachment of the president or the vice president by the Legislative Yuan shall be initiated upon the proposal of more than one-half of all members of the Legislative Yuan and passed by more than two-thirds of all the members of the Legislative Yuan, whereupon it shall be submitted to the National Assembly. The provisions of Article 90 and Article 100 of the Constitution and Article 7, Paragraph 1 of the Additional Articles of the Constitution shall not apply.

No member of the Legislative Yuan may be arrested or detained without the permission of the Legislative Yuan, when that body is in session, except in case of flagrante delicto. The provisions of Article 74 of the Constitution shall cease to apply.

Article 5. The Judicial Yuan shall have 15 grand justices. The 15 grand justices, including a president and a vice president of the Judicial Yuan to be selected from amongst them, shall be nominated and, with the consent of the Legislative Yuan, appointed by the president of the Republic. This shall take effect from the year 2003, and the provisions of Article 79 of the Constitution shall not apply. The provisions of Article 81 of the Constitution and pertinent regulations on the lifetime holding of office and payment of salary do not apply to grand justices who did not transfer from the post of a judge.

Each grand justice of the Judicial Yuan shall serve a term of eight years, independent of the order of appointment to office, and shall not serve a consecutive term. The grand justices serving as president and vice president of the Judicial Yuan shall not enjoy the guarantee of an eight-year term.

Among the grand justices nominated by the president in the year 2003, eight members, including the president and the vice president of the Judicial Yuan, shall serve for four years. The remaining grand justices shall serve for eight years. The provisions of the preceding paragraph regarding term of office shall not apply.

The grand justices of the Judicial Yuan shall, in addition to discharging their duties in accordance with Article 78 of the Constitution, also form a Constitutional Court to adjudicate matters relating to the dissolution of unconstitutional political parties.

A political party shall be considered unconstitutional if its goals or activities endanger the existence of the Republic of China or the nation's free and democratic constitutional order.

The proposed budget submitted annually by the Judicial Yuan may not be eliminated or reduced by the Executive Yuan; however, the Executive Yuan may indicate its opinions on the budget and include it in the central government's proposed budgetary bill for submission to the Legislative Yuan for deliberation.

Article 6. The Examination Yuan shall be the highest examination body of the State, and shall be responsible for the following matters; and the provisions of Article 83 of the Constitution shall not apply:

1. Holding of examinations;
2. Matters relating to the qualification screening, security of tenure, pecuniary aid in case of death, and retirement of civil servants; and
3. Legal matters relating to the employment, discharge, performance evaluation, scale of salaries, promotion, transfer, commendation and award of civil servants.

The Examination Yuan shall have a president, a vice president, and several members, all of whom shall be nominated and, with the consent of the Legislative Yuan, appointed by the president of the Republic; and the provisions of Article 84 of the Constitution shall not apply.

The provisions of Article 85 of the Constitution concerning the holding of examinations in different areas, with prescribed numbers of persons to be selected according to various provinces and areas, shall cease to apply.

Article 7. The Control Yuan shall be the highest control body of the State and shall exercise the powers of impeachment, censure and audit; and the pertinent provisions of Article 90 and Article 94 of the Constitution concerning the exercise of the power of consent shall not apply.

The Control Yuan shall have 29 members, including a president and a vice president, all of whom shall serve a term of six years. All members shall be nominated and, with the consent of the Legislative Yuan, appointed by the president of the Republic. The provisions of Article 91 through Article 93 of the Constitution shall cease to apply.

Impeachment proceedings by the Control Yuan against a public functionary in the central government, or local governments, or against personnel of the Judicial Yuan or the Examination Yuan, shall be initiated by two or more members of the Control Yuan, and be investigated and voted upon by a committee of not less than nine of its members, the restrictions in Article 98 of the Constitution notwithstanding.

In the case of impeachment by the Control Yuan of Control Yuan personnel for dereliction of duty or violation of the law, the provisions of Article 95 and Article 97, Paragraph 2 of the Constitution, as well as the preceding paragraph, shall apply.

Members of the Control Yuan shall be beyond party affiliation and independently exercise their powers and discharge their responsibilities in accordance with the law.

The provisions of Article 101 and Article 102 of the Constitution shall cease to apply.

Article 8. The remuneration or pay of the members of the Legislative Yuan shall be regulated by law. Except for general annual adjustments, individual regulations on increase of remuneration or pay shall take effect starting with the subsequent Legislative Yuan. Expenses for the convention of the delegates to the National Assembly shall be regulated by law.

Article 9. The system of self-government in the provinces and counties shall include the following provisions, which shall be established by the enactment of appropriate laws, the restrictions in Article 108, Paragraph 1, Item 1; Article 109; Article 112 through Article 115; and Article 122 of the Constitution notwithstanding:

1. A province shall have a provincial government of nine members, one of whom shall be the provincial governor. All members shall be nominated by the president of the Executive Yuan and appointed by the president of the Republic.
2. A province shall have a provincial advisory council made up of a number of members, who shall be nominated by the president of the Executive Yuan and appointed by the president of the Republic.
3. A county shall have a county council, members of which shall be elected by the people of the said county.
4. The legislative powers vested in a county shall be exercised by the county council of the said county.
5. A county shall have a county government headed by a county magistrate who shall be elected by the people of the said county.
6. The relationship between the central government and the provincial and county governments.
7. A province shall execute the orders of the Executive Yuan and supervise matters governed by the counties.

The modifications of the functions, operations, and organization of the Taiwan Provincial Government may be specified by law.

Article 10. The State shall encourage the development of and investment in science and technology, facilitate industrial upgrading, promote modernization of agriculture and fishery, emphasize exploitation and utilization of water resources, and strengthen international economic cooperation.

Environmental and ecological protection shall be given equal consideration with economic and technological development.

The State shall assist and protect the survival and development of private small and medium-sized enterprises.

The State shall manage government-run financial organizations, in accordance with the principles of business administration. The management, personnel, proposed budgets, final budgets, and audits of the said organizations may be specified by law.

The State shall promote universal health insurance and promote the research and development of both modern and traditional medicines.

The State shall protect the dignity of women, safeguard their personal safety, eliminate sexual discrimination, and further substantive gender equality.

The State shall guarantee insurance, medical care, obstacle-free environments, education and training, vocational guidance, and support and assistance in everyday life for physically and mentally handicapped persons, and shall also assist them to attain independence and to develop.

The State shall emphasize social relief and assistance, welfare services, employment for citizens, social insurance, medical and health care, and other social welfare services. Priority shall be given to funding social relief and assistance, and employment for citizens.

The State shall respect military servicemen for their contributions to society, and guarantee studies, employment, medical care, and livelihood for retired servicemen.

Priority shall be given to funding education, science, and culture, and in particular funding for compulsory education, the restrictions in Article 164 of the Constitution notwithstanding. The State affirms cultural pluralism and shall actively preserve and foster the development of aboriginal languages and cultures.

The State shall, in accordance with the will of the ethnic groups, safeguard the status and political participation of the aborigines. The State shall also guarantee and provide assistance and encouragement for aboriginal education, culture, transportation, water conservation, health and medical care, economic activity, land, and social welfare, measures for which shall be established by law. The same protection and assistance shall be given to the people of the Penghu, Kinmen, and Matsu areas.

The State shall accord to nationals of the Republic of China residing overseas protection of their rights of political participation.

Article 11. Rights and obligations between the people of the Chinese mainland area and those of the free area, and the disposition of other related affairs may be specified by law.